

Filed 10/03/19 by Clerk of Supreme Court

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2019 ND 237

Byron Whetsel,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

No. 20190034

Appeal from the District Court of Ransom County, Southeast Judicial District,
the Honorable Jay A. Schmitz, Judge.

AFFIRMED.

Per Curiam.

Darla J. Schuman, Grand Forks, N.D., for petitioner and appellant.

Fallon M. Kelly, Lisbon, N.D., for respondent and appellee.

Whetsel v. State
No. 20190034

Per Curiam.

[¶1] Byron Whetsel appeals from a district court order denying his application for post-conviction relief. A jury found Whetsel guilty of murder and two counts of child abuse. Whetsel applied for post-conviction relief, alleging ineffective assistance of counsel. After an evidentiary hearing, the district court issued an order denying post-conviction relief. On appeal, Whetsel argues the district court erred in denying his application for post-conviction relief.

[¶2] We summarily affirm under N.D.R.App.P. 35.1(a)(2), concluding the district court's findings are not clearly erroneous, and the court did not err in determining Whetsel received effective assistance of counsel.

[¶3] Gerald W. VandeWalle, C.J.
Jerod E. Tufte
Daniel J. Crothers
Lisa Fair McEvers
Jon J. Jensen